

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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In re: : Case No. 22-60052  
: :  
APPALACHIAN BASIN CAPITAL, LLC : Chapter 11  
: :  
: Judge Russ Kendig  
: :  
Debtor and :  
Debtor-in-Possession. :  
: :  
(Employer Tax I.D. No. 20-2932599) :  
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**OBJECTION TO CLAIM NO. 2-1 FILED BY LORETTA BEULE**

Now comes Appalachian Basin Capital, LLC, the Debtor and Debtor-in-Possession herein (the “Debtor”), and hereby submits its Objection to Claim No. 2-1 filed by Loretta Beule. For its Objection, the Debtor states as follows:

1. On January 24, 2022 (the “Petition Date”) the Debtor commenced the instant chapter 11 case.
2. The Court has jurisdiction over the Debtor’s case and this proceeding pursuant to 28 U.S.C. §§ 1334 and 157, venue is proper in the Court pursuant to 28 U.S.C. §§1408 and 1409, and this is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(B).

3. The Debtor objects to claim no. 2-1 filed by Loretta Beule (“Beule”) on March 24, 2021, to the extent Beule is claiming that the Debtor may owe her an unknown amount of money, that Beule is claiming an equitable ownership interest in the Debtor’s property and an equitable ownership of the Debtor’s membership units, and that Beule is claiming the claims of Appalachian Basin CPA and David Beule.

4. Section 501(a) of the Bankruptcy Code provides that a creditor or indenture trustee may file a proof of claim and that an equity security holder may file a proof of interest. Beule filed a proof of claim alleging that the Debtor may owe Beule money in an unknown amount. The Debtor owes no money to Beule for any reason. Beule’s only relationship to the Debtor is that she is married to the Debtor’s owner.

5. The “Appalachian Basin Capital Proof of Claim Attachment” attached to Beule’s Proof of Claim 2-1 asserts that “[c]laimant has a legally recognizable and enforceable equitable interest in various assets and claims by virtue of Stark County Case No. 2021DR0662 including but not limited to the membership units of Appalachian Basin Capital, LLC and the claims of Appalachian Basin CPA and David Beule.” The Debtor objects to Beule’s claims to any equitable interest in the Debtor’s assets, the Debtor’s membership units, and any claim to “the claims of Appalachian Basin CPA and David Beule”.

6. This Court has previously held that ownership of a company provides no ownership interest in the assets of the company itself. See, In re Salyer, No. 21-60026, 2021 Bankr. LEXIS 1606 (Bankr. N.D. Ohio June 15, 2021). Whatever claims Beule may hold as a result of her being a party to the Stark County Case No. 2021DR0662 (the “DR Case”), do not include ownership of any of the assets of the Debtor.

7. Further, Beule claims that she may hold an equitable interest in the membership units of the Debtor as a result of her being a party to the DR Case. On the Petition Date, all Beule held was a claim for equitable division of marital property in the DR Case—not any ownership of the Debtor’s membership units. Beule’s claims are similar to the claims of the creditor in XL/Datacomp v. Wilson (In re Omegas Grp.), 16 F.3d 1443 (6th Cir. 1994) who claimed to hold a constructive trust against the debtor’s assets. Similar to the creditor’s claim in Omegas, Beule’s claim to an equitable interest in the Debtor’s membership units is not actually an interest, it is a remedy. Any ownership interest in the Debtor would be a remedy awarded by the Stark County Domestic Relations Court as part of the division of the Debtor’s owner’s and Beule’s property. Accordingly, Beule’s claim to an equitable ownership in the Debtor as of the Petition Date must fail.

8. Beule’s assertion that she has an interest in the claims to the claims of Appalachian Basin CPA and David Beule suffer from the same infirmity. To the extent Beule asserts an interest in the claims of Appalachian Basin CPA and David Beule, then Beule is asserting a remedy that may or may not be awarded in the DR Case. Her interest in those claims, if any, has not been awarded in the DR Case and had not been awarded in the DR Case on the Petition Date.

Accordingly, for reasons stated herein, the Debtor respectfully requests that the Court enter an order in the form attached hereto as Exhibit A, (i) disallowing claim no. 2-1 until the domestic relations court in the DR Case awards Beule a claim against the Debtor, an interest in the Debtor’s

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assets or membership units, or the claims of Appalachian Basin CPA or David Beule, and (ii) granting any other and further relief the Court deems just and proper.

Respectfully submitted,

/s/ Anthony J. DeGirolamo

Anthony J. DeGirolamo (0059265)

3930 Fulton Dr., N.W., Ste. 100B

Canton, Ohio 44718

Telephone: (330) 305-9700

Facsimile: (330) 305-9713

E-Mail: [tony@ajdlaw7-11.com](mailto:tony@ajdlaw7-11.com)

COUNSEL FOR THE DEBTOR  
AND DEBTOR IN POSSESSION

## **NOTICE OF OBJECTION TO CLAIM**

The Debtor has filed an objection to your claim in this bankruptcy case.

**Your claim may be reduced, modified, or eliminated.** You should read these papers carefully and discuss them with your attorney if you have one.

If you do not want the court to eliminate or change your claim, then on or before **April 30, 2022**, you or your lawyer must:

File with the court a written response to the objection, explaining your position at:

United States Bankruptcy Court  
Ralph Regula U.S. Courthouse  
401 McKinley Avenue SW  
Canton, Ohio 44702

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Anthony J. DeGirolamo, Esq.  
3930 Fulton Drive NW, Suite 100B  
Canton, Ohio 44718

Attend the hearing<sup>1</sup> on the objection, scheduled to be held on **May 24, 2022, at 2:00 p.m.** in the Courtroom, at the United States Bankruptcy Court, Ralph Regula U.S. Courthouse, 401 McKinley Avenue SW, Canton, Ohio 44702.

If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to your claim.

Date: March 31, 2022

Signature: /s/ Anthony J. DeGirolamo  
Anthony J. DeGirolamo (0059265)

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<sup>1</sup> The Court's dial in number is 888-684-8852 and the access code is 3303949 followed by the pound (#) sign. For further details on telephonic participation, please refer to the Court's Notice of Telephonic Hearing Procedure for Judge Kendig dated March 18, 2020, at <https://www.ohnb.uscourts.gov/sites/default/files/memoranda/telephonic-hearing-procedure-31820.pdf>

### **CERTIFICATE OF SERVICE**

I hereby certify that on March 31, 2022, a copy of the foregoing Objection was electronically transmitted via the Court's CM/ECF system to those listed on the Court's Electronic Mail Notice list:

- Todd S. Bundy   tbundy@bmsa.com
- Anthony J. DeGirolamo   tony@ajdlaw7-11.com, amber@ajdlaw7-11.com;G23630@notify.cincompass.com
- M. Colette Gibbons   Cgibbons@mcdonaldhopkins.com, bkfilings@mcdonaldhopkins.com;mhdocket@mcdonaldhopkins.com;cmcg11@trustesolutions.net
- Anne Piero Silagy   asilagylawfirm@neo.rr.com
- United States Trustee   (Registered address)@usdoj.gov
- Chrysanthé E. Vassiles   cvassiles@bmsa.com, wpoling@ecf.courtdrive.com;cvassiles@ecf.courtdrive.com
- Scott R. Belhorn ust35   Scott.R.Belhorn@usdoj.gov

/s/ Anthony J. DeGirolamo  
Anthony J. DeGirolamo

The undersigned hereby certifies that a copy of the foregoing Objection was served via regular U.S. Mail, postage prepaid, upon those listed below, this 31<sup>st</sup> day of March, 2022.

/s/ Anthony J. DeGirolamo  
Anthony J. DeGirolamo

Lorette Beule  
c/o Anne Piero Silagy, Esq.  
1225 South Main Street, Suite 1  
North Canton, Ohio 44720

**EXHIBIT A**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

-----X  
In re: : Case No. 22-60052  
: :  
APPALACHIAN BASIN CAPITAL, LLC : Chapter 11  
: :  
: Judge Russ Kendig  
: :  
Debtor and :  
Debtor-in-Possession. :  
: :  
(Employer Tax I.D. No. 20-2932599) :  
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**ORDER GRANTING OBJECTION TO CLAIM NO. 2-1**  
**FILED BY LORETTA BEULE**

Before the Court is the Objection to Claim No. 2-1 filed by the Debtor and Debtor in Possession, Appalachian Basin Capital, LLC (Doc. No. \_\_\_\_ ) (the “Objection”).

The Court has jurisdiction over the Debtor’s case and this proceeding pursuant to 28 U.S.C. §§ 1334 and 157, venue is proper in the Court pursuant to 28 U.S.C. §§1408 and 1409, and this is a core proceeding pursuant to 28 U.S.C. §157(b)(2)(B).



Based upon the representations contained in the Objection, the record in this case, and for good cause having been shown, the Court hereby **FINDS AND DETERMINES THAT:**

1. Service of the Objection and Notice was proper pursuant to the Bankruptcy Code and all applicable Bankruptcy Rules.

2. Claim no. 2-1 filed by Loretta Beule should be, and hereby is, disallowed without prejudice to refiling within thirty (30) days after the Stark County Domestic Relations Court in the domestic relations case styled as Beule v. Beule, Case No. 2021-DR-0662 may award Loretta Beule a claim against the Debtor or an interest in the Debtor's assets or membership units, or the claims of Appalachian Basin CPA or David Beule.

IT IS SO ORDERED.

# # #

Prepared by:

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COUNSEL FOR THE DEBTOR  
AND DEBTOR IN POSSESSION

### **CERTIFICATE OF SERVICE**

I hereby certify that on \_\_\_\_\_, 2022, a copy of the foregoing Order was electronically transmitted via the Court's CM/ECF system to those listed on the Court's Electronic Mail Notice list:

- Todd S. Bundy   tbundy@bmsa.com
- Anthony J. DeGirolamo   tony@ajdlaw7-11.com, amber@ajdlaw7-11.com;G23630@notify.cincompass.com
- M. Colette Gibbons   Cgibbons@mcdonaldhopkins.com, bkfilings@mcdonaldhopkins.com;mhdocket@mcdonaldhopkins.com;cmcg11@trustesolutions.net
- Anne Piero Silagy   asilagylawfirm@neo.rr.com
- United States Trustee   (Registered address)@usdoj.gov
- Chrysanthé E. Vassiles   cvassiles@bmsa.com, wpoling@ecf.courtdrive.com;cvassiles@ecf.courtdrive.com
- Scott R. Belhorn ust35   Scott.R.Belhorn@usdoj.gov

\_\_\_\_\_  
Deputy Clerk

I hereby certify that a copy of the foregoing Objection was served via regular U.S. Mail, postage prepaid, upon those listed below, this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Deputy Clerk

Lorette Beule  
c/o Anne Piero Silagy, Esq.  
1225 South Main Street, Suite 1  
North Canton, Ohio 44720